

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-60126-LEIBOWITZ/AGUSTIN-BIRCH

UNITED STATES OF AMERICA,

v.

JANICE ELEANOR TURNER and
KISEAN PAUL ANDERSON, a/k/a
SEAN KINGSTON,
Defendants.

/

DEFENDANTS' AMENDED OBJECTIONS AND RESPONSE TO GOVERNMENT'S

NOTICE OF INTENT TO THE INEXTRICABLY AND INTERTWINED EVIDENCE,

OR

IN THE ALTERNATIVE, 404(B) EVIDENCE

(CORRECTION OF TYPOGRAPHICAL ERROR)

Defendants file their objections and response to the government's request to use prior evidence from 2021 or alternatively 404(b) evidence as follows:

The government seeks to introduce emails allegedly from defendant ANDERSON and his mother, defendant JANICE TURNER, first alleging that these 2021 emails are "inextricably intertwined" within the indictment. If admitted, this evidence will deprive defendants of a fair trial on the charges alleged in the indictment.

The government does not require these emails from 2021 to prove their case on the indictment. The probative value is slight and is not needed for the government to achieve a conviction as they have advised their evidence against these defendants are "overwhelming".

The unfair prejudice to the defendants should this evidence from 2021 be admitted far outweighs the slight probative value under Federal Rule 403. This evidence will prejudice the defendant in that it appears to the jury's sympathies, provokes its instinct to punish or otherwise

may cause a jury to base its decision on something other than establish proposition in the case. See *United States v. Skillman*, 922 F.2d 1370, 1374 (9th Cir. 1990), cert. dismissed 502 U.S. 922 (1991); *Old Chief v. United States*, 519 U.S. 172, 180 (1997). The 2021 evidence that the government seeks to introduce is not essential to their case. See *United States v. King*, 713 F.2d 627, 631 (11th Cir. 1983) cert. denied 466 U.S. 942 (1984)(“the more essential the evidence, the greater its protective valve, and the less likely that a trial court should order the evidence excluded”).

THE 404(B) EVIDENCE

The government concedes that in a fraud case a pattern of fraudulent conduct is “intrinsic” and not “extrinsic” and is not offered under Fed.R.Evid. 404(B). See government’s motion at pg. 2 (D.E. #59). Citing *United States v. Muscatell*, 42 F.3d 627 (11th Cir. 1995).

Finally, this Honorable Court’s Order Setting Trial and Pretrial Schedule mandates that all pretrial motions including 404(b) Must be filed by January 1, 2025. (Emphasis original). The notice of intent to use inextricably intertwined or 404(B) and was filed March 12th, 2025 (D.E. #59). This late disclosure is in violation of the court order and has prejudiced the defendants in their trial preparation. Defendants move to exclude all of the 2021 text messages and any other evidence from 2021. Alternatively, should this court deny this motion, defendants request that prior to introduction of the 2021 texts that the jury be given a limiting instruction and after hearing the 2021 evidence, be again given the limiting instruction as set forth in the eleventh circuit pattern jury instructions, special instruction 4. See *United States v. Beachum* 582 F.2d 898 (5th Cir. 1978) (*en banc*) cert. denied at 440 U.S. 920 (1979). *United States v. Miller*, 959 F.2d 1535 (11th Cir. 1992) (*en banc*) cert. denied 505 U.S. 942 (1992).

WHEREFORE the defendants move to exclude the 2021 evidence.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with via e-portal and copied to: Marc S. Anton, AUSA, 500 East Broward Blvd., Suite 700, Ft. Lauderdale, Fl 33394, marc.anton@usdoj.gov, Tanya Okun at: tanya_okun@flsp.uscourts.gov and to trevor.jones@usdoj.gov this 18th day of March, 2025.

Respectfully Submitted,

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